

REMARKS

Claims 1-10 and 12-25 were pending in the subject application. Of these, claims 24 and 25 are withdrawn.

Applicants thank Examiner Patel for the courtesy of a telephone interview and several follow-up discussions regarding the above-listed claims. During a follow-up conversation with Examiner Patel, applicants' undersigned representative discussed the differences between applicants' invention and prior art reference Cathcart et al., U.S. Patent No. 2,966,908 cited in an obviousness rejection as a secondary reference disclosing a lower wing, which element is not disclosed in the cited primary reference but recited in applicants' claims. Although applicants disagree that Cathcart truly teaches a lower wing, applicants pointed out to Examiner Patel during the discussion that Cathcart does not teach either that (1) the lower wing is arranged to extend vertically downward following essentially the shape of the lower jaw side or (2) that the lower wing is arranged to reach the immediate proximity of the base of the mouth cavity. Examiner Patel agreed that Cathcart does not teach these claimed elements and requested that applicants submit a written communication with the arguments presented during the telephone discussion.

In the Final Office Action, claims 1-6, 10, 13-17, and 26 have been rejected under 35 U.S.C. 103(a) as obvious over Bergersen, U.S. Patent No. 4,784,605 ("Bergersen I") in view of Cathcart et al., U.S. Patent No. 2,966,908 ("Cathcart"). Claims 7-9 and 18-23 have been rejected under 35 U.S.C. 103(a) as obvious over Bergersen I in view of Cathcart as applied to claim 1 from which these claims depend, and further in view of Bergersen, U.S. Patent No. 5,645,420 ("Bergersen II").

Applicants respectfully traverse each of the above rejections.

As the Examiner acknowledges, Bergersen I does not teach each and every element of applicants' invention as recited in claim 1. Bergersen I does not disclose that the lower jaw side surface of applicants' odontological device has a lower wing of any kind, and therefore certainly not a lower wing being arranged to extend vertically downward following essentially the shape

of the lower jaw side and reach the immediate proximity of the base of the mouth cavity.

Accordingly, the Examiner cites Cathcart as disclosing a lower wing.

Cathcart does not disclose an odontological device but rather discloses a mouth piece to be worn to protect the teeth. The device of Cathcart is not designed to function as anything but protective guard and is made to cover the subject's teeth when the subject's mouth is closed and biting down. The device therefore can be said to have two lower wings and two upper wings as the Examiner argues. However, the lower wing of Cathcart does not extend beyond the bottom of the teeth or the gum line. Accordingly, Cathcart does not disclose a lower wing being arranged to extend vertically downward following essentially the shape of the lower jaw side and reach the immediate proximity of the base of the mouth cavity.

Applicants' invention in contrast provides a lower wing which is arranged to extend vertically downward following essentially the shape of the lower jaw side, and to reach the immediate proximity of the base of the mouth cavity by as recited in claim 1. Accordingly, the cited references do not disclose each and every element of the claimed device.

Applicants further maintain that one skilled in the art would not have extended this lower wing of Cathcart as the functional advantages of a lower wing as claimed herein was not known, but was first disclosed in the instant application. Specifically, applicants' specification provides *inter alia* at page 10 that the lower wing extend advantageously "to the immediate vicinity of the base of the mouth cavity in the area of the first molar". Further the specification provides that as designed, "[t]he lower wing limits the tongue in the surface on the lower jaw side at least sideways, by which means the device more easily remains in place in the patient's mouth." In addition, the specification discloses that "[t]he lower wings keep the lower jaw in place at the front, thus avoiding the drawback of known devices causing lower jaw 'dropping'". In addition, the design of the lower wing of applicants' invention is such that the lower wings have been formed to be slightly curved towards the teeth of the lower jaw and the edge of the flexible wall follows fairly precisely the shape of the lower jaw arch. None of this is disclosed or suggested by Cathcart.

Applicants also point out that Bergersen II does not disclose a lower wing at all and so cannot cure the deficiency of Bergersen I and Carthcart in combination.

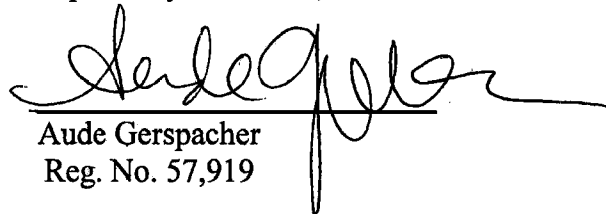
In view of the remarks above, applicants maintain that claim 1 as listed herein, and claims 2-10 and 13-23 are not obvious over any combination of the cited prior art and are therefore in condition for allowance. Applicants respectfully request that the Examiner reconsider and withdrawn these rejections under 35 U.S.C. §103.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

Reconsideration and allowance of the claims herein are respectfully requested.

Respectfully submitted,

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